

United States
Circuit Court of Appeals
For the Ninth Circuit.

SAMUEL W. BACKUS, as Commissioner of Immi-
gration at the Port of San Francisco,
Appellant,
VS.
YIP KIM YUEN,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Northern District of California,
First Division.

Filed

FEB 6 - 1915

F. D. Monckton,
Clerk.

United States
Circuit Court of Appeals
For the Ninth Circuit.

SAMUEL W. BACKUS, as Commissioner of Immigration at the Port of San Francisco,
Appellant,
vs.
YIP KIM YUEN,
Appellee.

Transcript of Record.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys.

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Francisco, Calif.,

and

WALTER E. HETTMAN, Esquire, Asst. U. S.
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Attorneys for Respondent and Appellant.

LUCIUS L. SOLOMONS, Esquire, Sharon Bldg.,
San Francisco, Calif.,

and

Messrs. CATLIN & CATLIN, 628 Montgomery
St., San Francisco, Cal.,

Attorneys for Petitioner and Appellee.

*In the District Court, First Division United States,
Northern District of California.*

No. 15,609.

In Re YEP KIM YUEN on *Habeas Corpus*.

Praecipe for Record on Appeal.

The Clerk of said Court will please prepare record on appeal to include the following papers: Petition for Writ of H. C., Order to Show Cause, Demurrer, Writ of *Habeas Corpus*, Order of Discharge, Notice of Appeal, Petition for Appeal, Order Allowing Appeal, Minute Orders dated April 1, 1914 & Apr. 14, 1914, Assignment of Errors, and original exhibits introduced in evidence.

This 29th day of October, 1914.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: Filed Oct. 29, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [1*]

*In the District Court of the United States, Northern
District of California, First Division.*

(No. 15,609.)

In the Matter of the Application of YEP LUNG
GON for a Writ of *Habeas Corpus* for and on
Behalf of YEP KIM YUEN.

Petition for Writ of Habeas Corpus.

To the Honorable MAURICE T. DOOLING, Judge
of the Above-entitled court,

The petition of YEP LUNG GON respectfully
shows:

I.

That your petitioner, Ype Lung Gon, was born in
the United States and is a citizen thereof and is a
resident of San Francisco, Northern District of Cali-
fornia. That the fact of your petitioner's citizen-
ship has been judicially determined by a judgment
of this court in the matter of Yep Lung Gon on
habeas corpus No. 90,071, which said judgment was
duly given, made and entered on the 9th day of Janu-
ary, 1890.

II.

That Yep Kim Yuen, the detained person on
whose behalf the petition is made, is the minor son
of your petitioner and is a citizen of the United
States of America.

*Page-number appearing at foot of page of original certified Record.

III.

That the said Yep Kim Yuen is unlawfully imprisoned, detained, confined and restrained of his liberty by Samuel W. Backus, Commissioner of Immigration, at the port of San Francisco, at the Immigration Station of the United States at Angel Island or at some other place in the Northern District of California, and is about to be deported from the United States to China. [2]

IV.

That the illegality of such imprisonment, *restraint*, detention and confinement consists of this, to wit:

That the said Yep Kim Yuen made application to be admitted to the United States at the port of San Francisco as a citizen of the United States, and as the minor son of your petitioner; that subsequent to his said application to be so admitted to the United States, the said Yep Kim Yuen was refused and denied a fair hearing in good faith by the Secretary of Labor of the United States by a manifest abuse of discretion committed to him by law and through errors and mistakes of law and against the spirit and letter of law, and denied the right to enter the United States, and in that respect your petitioner alleges:

1. That the said Yep Kim Yuen during the month of September, 1913, arrived by steamer at the port of San Francisco from China and made application to the Commissioner of Immigration at the port of San Francisco for admission to the United States as a citizen thereof and as the minor son of

your petitioner. That thereafter, in pursuance of the rules and regulations of the Department of Labor, and in pursuance of the laws of the United States, said Yep Kim Yuen was given a hearing before the proper immigration authorities touching his right to enter the United States as a citizen thereof and as the minor son of your *petition*, and at such hearing testimony and documentary evidence was submitted on behalf of said applicant before such immigration officers touching his right to enter the United States of America. That at said hearing testimony was introduced and submitted bearing upon the paternity of your petitioner to the said applicant and that at said hearing testimony and documentary evidence was submitted and introduced [3] bearing upon the citizenship of your petitioner; that thereafter, said Commissioner found that said applicant was not the son of your petitioner and was not a citizen of the United States by reason of the alleged paternity of your petitioner; that thereafter, said application for admission to the United States was denied by said Commissioner; that thereafter an appeal from said Commissioner denying said application was taken by and on behalf of the said Yep Kim Yuen to the said Secretary of Labor; that thereafter, as your petitioner is informed and believes, and therefore alleges the fact to be, the said Secretary of Labor reversed said Commissioner's decision denying said application for admittance to the United States and said finding that said applicant was not the son of your petitioner. That then and there, the said Secretary of Labor

considered matters which were never incorporated in any record had or produced at the port of San Francisco, the exact character and nature of which matter is now unknown to your petitioner and to Yep Kim Yuen, and which matters your petitioner and said Yep Kim Yuen at no time had or were given an opportunity to rebutt, deny, explain or overcome; that thereafter, the said Secretary of Labor instructed and directed the said Commissioner of Immigration at the port of San Francisco, to investigate the identity of your petitioner, the said father of the applicant, and to determine and to find whether or not the said petitioner, the father of said applicant, Yep Kim Yuen, was the same person and the same Yep Lung Gon who was, as hereinbefore set forth, judicially determined by judgment of this court to be a citizen of the United States; that thereafter, said Commissioner did through the proper immigration officers investigate the identity of your petitioner, the father of the said Yep Kim Yuen, and did determine and did find [4] that he, your said petitioner, was the same person and the same Yep Lung Gon, who was, as hereinbefore set forth, judicially determined by judgment of this Court to be a citizen of the United States. That the said Commissioner, thereafter reduced said investigation, determination and finding to a written record and did, thereafter, forward said record of said investigation, determination and finding so taken to the said Secretary of Labor. And said petitioner alleges that said record so made and so forwarded clearly established the right of said detained person

to enter the United States and reside therein;

That your petitioner is informed and believes, and therefore alleges the fact to be, that the Secretary thereafter, without reason, refused, neglected and failed to consider said investigation and the testimony and evidence adduced thereat, and said determination and findings of said Commissioner so made and the record thereof so made and so forwarded and did, without reason, consider other matters which were never incorporated in any record had or produced at the port of San Francisco, the exact character and nature of which is now unknown to your petitioner and to said Yep Kim Yuen, and that the said Yep Kim Yuen and your petitioner at no time had, or were given, an opportunity to rebut, deny, explain or overcome said matter;

That immediately thereafter the said Secretary of Labor denied the said Yep Kim Yuen the right to enter the United States, and ordered said Commissioner at the port of San Francisco, to deport the said Yep Kim Yuen to China.

V.

That all of the said proceedings so had from the time of said application, by said Yep Kim Yuen to be admitted to the United States up to and including the order of said Secretary [5] denying the right of said applicant to enter the United States and directing said commissioner to deport said Yep Kim Yuen, and all orders, investigations, findings and recommendations of said Commissioner and said Secretary and all other papers, documents and proceedings in said matter in the application of said

Yep Kim Yuen for admission into the United States are, as your petitioner is informed and believes, and therefore alleges the fact to be, incorporated in the record of the application of said Yep Kim Yuen for admission to the United States and are now in the possession of and subject to the control of the Secretary of Labor and all of which had been and now are inaccessible to your petitioner and to said Yep Kim Yuen, and your petitioner and said Yep Kim Yuen have been unable to obtain copies or access thereof, and for that reason your petitioner is unable to accompany this petition with a copy of said record or any part thereof.

VI.

That the said Yep Kim Yuen, said detained person, has exhausted all rights and remedies and has no further remedies before the Department of Labor, unless the writ of *habeas corpus* issue out of the court as prayed for herein, directed to Samuel W. Backus, Commissioner as aforesaid, in whose custody the body of said Yep Kim Yuen now is, the said Yep Kim Yuen will be forthwith deported from the United States to China without due process of law.

WHEREFORE, your petitioner prays that a writ of *habeas corpus* be issued by this Honorable Court directed to and commanding the said Samuel W. Backus, Commissioner of Immigration at the port of San Francisco, to have and produce the body of said Yep Kim Yuen before this Honorable Court, at its courtroom in the City and County of San Francisco, Northern District of California, at the [6] opening of court on a day certain, in order that the

alleged cause of imprisonment, detention, confinement and restraint of the said Yep Kim Yuen and the legality or illegality thereof may be inquired into, and in order that in case the said imprisonment, detention, confinement and restraint are unlawful and illegal that the said Yep Kim Yuen be discharged from all custody, detention, imprisonment, confinement and restraint.

Dated this 4th day of March, 1914.

LUCIUS L. SOLOMONS,
CATLIN & CATLIN,

Attys. for Petitioners.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Yep Lung Gon being first duly sworn, deposes and says: That he is the petitioner named in the foregoing petition. That he has heard read the same and knows the contents thereof and the same is true of his own knowledge and belief except as to those matters which are therein stated on his information and belief and as to those matters that he believes it to be true.

YEP LUNG GON.

Subscribed and sworn to before me this 4th day of March, 1914.

[Seal]

C. W. CALBREATH,
Deputy Clerk, U. S. District Court, Northern District of California.

[Endorsed]: Filed Mar. 4, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [7]

*In the District Court of the United States, Northern
District of California, First Division.*

(No. 15,609.)

In the Matter of the Application of YEP LUNG
GON for a Writ of *Habeas Corpus* for and on
Behalf of YEP KIM YUEN.

Order to Show Cause.

Upon the reading and the filing of the petition herein for writ of *habeas corpus*, and good cause appearing therefor, it is hereby ordered that Samuel W. Backus, Commissioner of Immigration of the United States, at the port of San Francisco, be and appear on the 7 day of March, 1914, at the hour of 10 o'clock thereof, at a courtroom of this court, third floor of the United States Post Office Building, Seventh & Mission Streets, in the City and County of San Francisco, State of California, to show cause, if any there be, why a writ of *habeas corpus* should not issue as prayed for herein, and

IT IS FURTHER ORDERED that pending the determination of this matter that the custody of said Yep Kim Yuen, the detained person, on whose behalf the petition for writ of *habeas corpus* is made herein, shall not change, and the said Yep Kim Yuen shall not remove from the Northern District of California and from the jurisdiction of this Court until further order of this Court.

Dated this 4 day of March, 1914.

M. T. DOOLING,

Judge of the United States District Court, Division
One.

[Endorsed]: Filed Mar. 4, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [8]

*In the District Court of the United States, in and for
the Northern District of California, First Di-
vision.*

In the Matter of the Application of YEP LUNG
GON for a Writ of *Habeas Corpus*, for and on
Behalf of YEP KIM YUEN.

Demurrer to Petition for Writ of Habeas Corpus.

Now comes the respondent, Samuel W. Backus,
Commissioner of Immigration at the port of San
Francisco, and demurs to the petition on file herein
on the following grounds:

I.

That said petition does not state facts sufficient to
entitle petitioner to the issuance of a writ of *habeas
corpus* or any relief thereon.

II.

That said petition is insufficient in that the state-
ments in the petition relative to the record of the
testimony taken on the hearing for the order of de-
portation of the applicant, Yep Kim Yuen, are state-
ments of conclusions of law.

WHEREFORE, respondent prays that the writ
of *habeas corpus* be denied.

JOHN W. PRESTON,

United States Attorney.

WALTER E. HETTMAN,

Assistant United States Attorney.

Attorneys for Respondent.

[Endorsed]: Filed Mch. 28, 1914. W. B. Maling,
Clerk. By Francis Krull, Deputy. [9]

**[Order Overruling Demurrer and Directing Issuance
of Writ of Habeas Corpus, etc.]**

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 1st day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas Corpus*.

In this matter, the demurrer heretofore filed herein by the respondent, the United States of America, this day came on regularly for hearing. Walter E. Hettman, Assistant United States Attorney, appearing for respondent, and John C. Catlin, Esq., appearing for detained. Herbert F. Dugan and Dr. J. E. Gardner were each duly sworn and examined on behalf of petitioner. The demurrer was then argued by respective parties and submitted to the Court. The Court thereupon ordered that said demurrer be, and the same is hereby overruled, and that a Writ of *Habeas Corpus* issued as prayed in the Petition herein, and that the custody of said detained be not disturbed until the further order of this court. [10]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas Corpus*.

Writ of Habeas Corpus.

The President of the United States of America, to
the Commissioner of Immigration, Port of San
Francisco, Calif., Angel Island, Calif., Greeting:

YOU ARE HEREBY COMMANDED that you
have the body of the said person by you imprisoned
and detained, as it is said, together with the time and
cause of such imprisonment and detention, by what-
soever name the said person shall be called or charged,
before the Honorable M. T. Dooling, Judge of the
District Court of the United States, for the Northern
District of California, at the courtroom of said Court,
in the City and County of San Francisco, California,
on the 11th day of April, A. D. 1914, at 10 o'clock
A. M. to do and receive what shall then and there be
considered in the premises.

AND HAVE YOU THEN AND THERE THIS
WRIT.

WITNESS, the Honorable M. T. DOOLING,
Judge of the said District Court, and the seal thereof
at San Francisco, in said District, on the 2d day of
April, A. D. 1914.

[Seal]

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [11]

Return on Service of Writ.

United States of America,
Northern District of California,—ss.

I hereby certify and return that I served the annexed Writ of *Habeas Corpus*, on the therein-named Commissioner of Immigration, Port of San Francisco, Cal., Angel Island, Cal., by handing to and leaving a true and attested copy thereof with Samuel W. Backus, Commissioner of Immigration, Port of San Francisco, Cal., Angel Island, Cal., personally at Angel Island, Cal., in said District, on the 6th day of April, A. D. 1914.

J. B. HOLOHAN,
U. S. Marshal,
By I. W. GROVER,
Office Deputy.

[Endorsed]: Filed Apr. 6, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [12]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 14th day of April in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable M. T. DOOLING, District Judge.

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas Corpus*.

Minute Order Discharging Detained from Custody.

In this matter John C Catlin, Esq., was present with petitioner herein, in open court. W. E. Hettman, Esq., appeared on behalf of the Respondent. The Court ordered that the detained, Yep Kim Yuen be, and he is hereby discharged from custody and that he go hence without day. Thereupon, Mr. Hettman filed Notice of Appeal from such Order of Discharge and on motion of Mr. Hettman, the Court ordered that said Yep Kim Yuen furnish Bond in the sum of \$100.00, pending the determination of said appeal. [13]

[Order Discharging Person in Whose Behalf the Writ of Habeas Corpus was Sued Out from Custody.]

In the District Court of the United States, Northern District of California.

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas Corpus*.

This matter having been regularly brought on for hearing upon the issues joined herein, and the same having been duly heard and submitted, and due consideration having been thereon had, it is by the Court now here Ordered, that the said named person in whose behalf the writ of *habeas corpus* was sued out, is illegally restrained of his liberty, as alleged in the petition herein, and that he be, and he is hereby dis-

charged from the custody from which he has been produced, and that he go hence without day.

Entered this 14, day of April, 1914.

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Endorsed]: Filed Apr. 14, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [14]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas
Corpus*.

Petition for Appeal.

Now comes the respondent, SAMUEL W. BACKUS, appellant herein, and says:

That on the 1st day of April, 1914, the above-entitled court rendered, made and entered its order and judgment overruling the demurrer to the petition for a writ of *habeas corpus* and granting the petition for a writ of *habeas corpus* as prayed for on file herein, in which said order and judgment certain errors were made to the prejudice of this appellant, all of which will appear more in detail from the Assignment of Errors to be filed hereafter.

WHEREFORE, this appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals for the Ninth Circuit, of the United

States, for the correction of the errors so complained of and further, that a transcript of the record, proceedings and papers in the above-entitled matter, duly authenticated, may be sent and transmitted to the said Circuit Court of Appeals for the Ninth Circuit of the United States.

Dated San Francisco, April 14th, 1914.

JOHN W. PRESTON,
United States Attorney, Attorney for Respondent
and Appellant.

WALTER E. HETTMAN,
Asst. U. S. Attorney. [15]

Service by copy admitted this 14th day of April,
1914.

LUCIUS L. SOLOMONS, and
CATLIN & CATLIN,
Attys. for Applicant for writ of *habeas corpus*.

[Endorsed]: Filed April 14th, 1914. W. B. Mal-
ling, Clerk. By Lyle S. Morris, Deputy. [16]

*In the District Court of the United States, in and for
the Northern District of California, First Divi-
sion.*

In the Matter of YEP KIM YUEN on *Habeas
Corpus*.

Assignment of Errors.

Comes now Samuel W. Backus, Commissioner of Immigration at Angel Island, California, respondent in the above-entitled cause, by his attorneys, John W. Preston, United States Attorney, and Walter E. Hettman, Assistant United States Attorney, and for

his appeal herein, assigns the following errors which he avers occurred upon the trial or hearing of the petition for a writ of *habeas corpus* and upon which he will rely upon appeal to the Circuit Court of Appeals for the Ninth Circuit, to wit:

I. That the Court erred in granting the writ of *habeas corpus* and discharging the alien Yep Kim Yuen.

II. That the Court erred in holding that it had jurisdiction to issue a writ of *habeas corpus* in the above-entitled cause, as prayed for in the petition.

III. That the Court erred in holding that the allegations contained in said petition for a writ of *habeas corpus* were sufficient in law to justify the granting and issuing of a writ of *habeas corpus*. [17]

IV. That the Court erred in considering affidavits in the case which had already been passed upon and determined by the Secretary of Labor.

V. That the Court erred in overruling the decision of the Secretary of Labor on the question of fact, namely, in determining the identity of Yep Lung Gon, the father of Yep Kim Yuen with a former District Court record in and for the Northern District of California, No. 90,071.

VI. That the Court erred in making a finding of fact that the said Yep Lung Gon, the father of Yep Kim Yuen, was the same person who was discharged as a citizen of the United States under the name of Yep Lung Gon in 1890 in the said District Court, case No. 90,071.

VII. That the Court erred in weighing and considering evidence upon the question of fact already

determined by the Secretary of Labor on the question of the identity of Yep Lung Gon with the said District Court record of 1890.

VIII. That the Court erred in admitting and considering testimony on the question of the similitude of the handwriting signature of Yep Lung Gon and the handwriting and signature contained in the said court record of 1890.

IX. That the Court erred in admitting and considering testimony on the question of the similitude of Yep Lung Gon with a photograph contained in said District Court record of 1890.

X. That the Court erred in deciding that Yep Lung Gon was a citizen of the United States and entitled to have the care, custody and control of his minor son, Yep Kim Yuen in the United States. [18]

WHEREFORE, appellant prays that the judgment and order of the United States District Court in and for the Northern District of California, made and entered herein in the office of the clerk of the said court on the 14th day of April, A. D. 1914, granting the writ of *habeas corpus* be reversed.

JNO. W. PRESTON,

United States Attorney.

WALTER E. HETTMAN,

Asst. United States Attorney.

San Francisco, Cal., October 28, 1914.

Service of the within copy of assignment by copy admitted this 28 day of Oct. 1914.

CATLIN & CATLIN,

Attorneys for —————.

[Endorsed]: Filed Oct. 29, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [19]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 15,609.

In the Matter of YEP KIM YUEN on *Habeas Corpus*.

Order Allowing Appeal.

On the 14th day of April, 1914, came the respondent herein, Samuel W. Backus, through his attorneys John W. Preston, United States Attorney, and Walter E. Hettman, Assistant United States Attorney, and filed herein and presented to this Court, his petition praying for the allowance and appeal to the Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by him, and praying also that a transcript of the record and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmitted to the Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

On consideration whereof, the Court hereby allows the appeal herein prayed for, and that a certified transcript of all the record and all proceedings be prepared and presented by the clerk of this court to the Circuit Court of the United States for the Ninth Circuit, in the time prescribed by law; and ordered further that the said petitioner shall be allowed on

bail in the sum of one hundred dollars, during the pendency of said appeal.

M. T. DOOLING,
- U. S. District Judge.

Dated April 14th, 1914. [20]

Service by copy admitted this 14th day of April, 1914.

LUCIUS L. SOLOMONS and
CATLIN & CATLIN,

Attys. for Applicant for Writ of *habeas corpus*.

[Endorsed]: Filed April 14th, 1914. W. B. Mal-
ing, Clerk. By Lyle S. Morris, Deputy. [21]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 15,609.

In the Matter of YEP KIM YUEN, on *Habeas
Corpus*.

Notice of Appeal.

To the Clerk of said Court, and to John Catlin, Esq.,
and Lucius L. Solomons, Esq.:

You and each of you will please take notice that the respondent herein, Samuel W. Backus, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein on the 1st day of April, 1914, overruling the demurrer to the Petition for a writ of *habeas corpus* and granting the Petition for a writ of *habeas corpus* filed herein.

Dated San Francisco, April 14th, 1914.

JNO. W. PRESTON,

United States Attorney.

WALTER E. HETTMAN,

Assistant U. S. Attorney, Attorney for Respondent
and Petitioner.

Service by copy admitted this 14th day of April,
1914.

LUCIUS L. SOLOMONS and

CATLIN & CATLIN,

Attys. for Applicant for Writ of *habeas corpus*.

[Endorsed]: Filed April 14th, 1914. W. B. Mal-
ling, Clerk. By Lyle S. Morris, Deputy. [22]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 15,609.

In the Matter of YEP KIM YUEN, on *Habeas
Corpus*.

Order Withdrawing Exhibits [for Use on Appeal].

Good cause appearing therefor, it is hereby or-
dered that all original exhibits on file in the above-
entitled matter, be, and they are hereby allowed to
be withdrawn for the purpose of being used on the
appeal of the above-entitled matter to the Circuit
Court of Appeals.

Dated October 29th, 1914.

M. T. DOOLING,

United States District Judge.

[Endorsed]: Filed Oct. 29, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [23]

Certificate of Clerk U. S. District Court to Transcript on Appeal.

I, W. B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 23 pages, numbered from 1 to 23 inclusive, with the accompanying exhibits, 9 in number (transmitted separately in their original form), contain a full, true, and correct transcript of certain records and proceedings as the same now remain on file and of record in the office of the Clerk of said District Court, in the matter of Yep Kim Yuen, on *habeas corpus*, No. 15,609, and which said Transcript on Appeal is made up pursuant to and in accordance with "Praeceptum for Record on Appeal" (copy of which is embodied herein), and the instructions of Attorney for Respondent and Appellant herein.

I further certify that the cost for preparing and certifying the foregoing Transcript on Appeal is the sum of Ten Dollars and Eighty Cents (\$10.80). Annexed hereto is the original Citation on Appeal issued herein (paged 25 and 26).

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said District Court this 7th day of January, A. D. 1915.

[Seal]

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk. [24]

[Citation on Appeal.]

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Yip Kim Yuen, and to His Attorney John C. Catlin, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Northern District of California, wherein Samuel W. Backus, Commissioner of Immigration, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the No. Dist. of California, this 9th day of December, A. D. 1914.

M. T. DOOLING,

United States District Judge. [25]

[Endorsed]: No. 15,609. United States District Court for the Northern District of California, First Div. Samuel W. Backus, Com. of Imm., Appellant, vs. Yip Kim Yuen. Citation on Appeal. Filed Dec. 11, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

Service of the within Citation on appeal by copy admitted this 10th day of Dec. 1914.

CATLIN & CATLIN,
Attorneys for Defendant.

[Certificate of Clerk U. S. District Court to Original Exhibits.]

I, W. B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify the annexed exhibits, 7 in number, together with two volumes of immigration records, to be original exhibits filed in this office in the matter of Yep Kim Yuen, on *habeas corpus*, No. 15,609; said exhibits are transmitted in accordance with an order of this Court, dated October 29th, 1914, a copy of which is included in the Transcript of Appeal herewith.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said District Court this 7th day of January, A. D. 1915.

[Seal]

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Endorsed]: No. 2562. United States Circuit Court of Appeals for the Ninth Circuit. Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, Appellant, vs. Yip Kim Yuen, Appellee. Transcript of Record. Upon Appeal

from the United States District Court for the Northern District of California, First Division.

Filed January 7, 1915.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals, for
the Ninth Circuit.*

No. 2562.

SAMUEL W. BACKUS, as Commissioner of Immigration, etc.,

Appellant,

vs.

YEP KIM YUEN,

Appellee.

Stipulation Omitting Original Exhibits from Printed Transcript.

It is hereby stipulated by and between the respective parties hereto that the original exhibits heretofore transmitted by the Clerk of the District Court in and for the Northern District of California, pursuant to an order of the said District Court, be omitted from the printed transcript of the record.

Dated January 12th, 1915.

JNO. W. PRESTON,
United States Attorney.

WALTER E. HETTMAN,
Assistant U. S. Attorney, Attorneys for Appellant.
CATLIN & CATLIN,
Attorneys for Appellee.

[Endorsed]: No. 2562. In the Circuit Court of Appeals of the United States for the _____.
Samuel W. Backus, Appellant, vs. Yep Kim Yuen.
Stipulation Omitting Original Exhibits from Printed Transcript. Filed Jan. 13, 1915. F. D. Monckton, Clerk.